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PTO/SB/21 (04-07)

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Total Number of Pages in This Submission

17

Application Number

10/603,534

Filing Date

6-25-03

First Named Inventor

Alexandre Bronstein

Art Unit

2617

Examiner Name

Nguyen D.

Attorney Docket Number

BRONSTEIN.001

ENCLOSURES (Check all that apply)

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Remarks

The Fee for this Appeal has been previously paid. See page 2 of the Office Action mailed 2-16-07.

This Appeal Brief is filed in connection with the Notice of Appeal filed on 5-14-07.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Paul H. Horstmann		
Signature			
Printed name	Paul H. Horstmann		
Date	7-16-07	Reg. No.	36,167

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Alexander Bronstein

Application No: 10/603,534

Filed: 6-25-2003

For: DEFENDING AGAINST UNWANTED
COMMUNICATIONS BY STRIKING BACK
AGAINST THE BENEFICIARIES OF THE
UNWANTED COMMUNICATIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Examiner: Nguyen D.

Art Unit: 2617

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Appellant's Brief (Pursuant to 37 C.F.R.
§41.37)

Paul H. Horstmann
Signature

7-16-07
Date

Dear Sir:

Applicant/ Appellant submits this Appeal Brief in connection with the
above-referenced patent application which is on appeal to the Board of Patent
Appeals and Interferences.

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REAL PARTY IN INTEREST

The real party in interest in this application is ASTAV, inc.

RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any other related appeals or interferences that may directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

STATUS OF THE CLAIMS

Claims 1-9, and 21-31 stand rejected under 35 U.S.C. §102(e) in view of U.S. Patent Application Publication 2005/0021649 A1 of *Goodman et al.* ("*Goodman*").

Appellant appeals the rejection of all of the pending claims 1-9 and 21-31. Claims 1-9 and 21-31 as currently pending are set forth in the attached Appendix.

STATUS OF AMENDMENTS

Appellant is unaware of any amendments filed after the Final Office Action mailed 2-16-07 which finally rejected claims 1-9 and 21-31.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent claims 1 and 21 and 26 are directed to defending against an unwanted communication by striking back against a beneficiary of the unwanted communication rather than against a sender of the unwanted communication who may be un-reachable or difficult to block. (See appellant's specification, page 1, line 24 through page 2, lines 5). Striking back against a beneficiary of an unwanted communication deters further unwanted communications on behalf of the beneficiary by consuming the capacity of a communication channel belonging to the beneficiary. (See appellant's specification, page 2, lines 9-12 and page 6, lines 2-19).

Independent claim 1 is directed to a method for defense against an unwanted communication that includes identifying a communication channel to a beneficiary of the unwanted communication by examining a content of the unwanted communication (see page 4, line 11 through page 5, line 30 and element 10 of Figure 1 of Appellant's specification) and striking back by sending a communication via that identified communication channel to the beneficiary (see page 5, lines 32-33, and element 12 of Figure 1 of Appellant's specification).

Independent claim 21 is directed to a defense coordinator that provides a centralized strike back service to recipients of unwanted communications. (See page 10, lines 31-33 and element 100 of Figure 2 of Appellant's specification). A defense coordinator according to claim 21 obtains an identify request from a recipient of an unwanted communication (see page 9, lines 31-33 of Appellant's specification) and in response identifies a communication channel to a beneficiary of the unwanted communication by examining a content of the unwanted communication (see page 10, lines 1-3 of Appellant's specification) and performs a strike back against the beneficiary by sending a communication via the communication channel to the beneficiary (see page 10, lines 31-33 of Appellant's specification).

Independent claim 26 is directed to a distributed strike back system that enables a recipient of an unwanted communication to participate in a distributed strike back force against a beneficiary of the unwanted communication. (See page 11, lines 21-27 of Appellant's specification). A distributed strike back system according to claim 26 includes a recipient system of an unwanted communication (see element 30 of Figure 3 of

Appellant's specification) and a defense coordinator that obtains an identify request from the recipient system and that in response determines a set of strike back parameters that identify a communication channel to a beneficiary of the unwanted communication (see page 11, lines 21-27 and element 100 of Figure 2 of Appellant's specification) and that sends the strike back parameters to the recipient system such that the recipient system performs a strike back against the beneficiary by sending a communication via the communication channel to the beneficiary (see page 10, lines 25-26 of Appellant's specification).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

I: Rejection of claims 1-9 and 21-31 as being anticipated by *Goodman*.

ARGUMENT

I: Claims 1-9 and 21-31 are not anticipated by *Goodman* because *Goodman* does not disclose the limitations of independent claims 1, 21, and 26 for striking back against a beneficiary of an unwanted communication.

Appellant respectfully submits that claims 1, 21, and 26, and claims 2-9, 22-25, and 27-31 which depend from claims 1, 21, and 26, are not anticipated by *Goodman* because *Goodman* does not disclose striking back against a beneficiary of an unwanted communication as claimed in claims 1, 21, and 26. *Goodman* does not disclose identifying a communication channel to a beneficiary of an unwanted communication by examining a content of the unwanted communication as claimed in claims 1, 21, and 26 and *Goodman* does not disclose striking back by sending a communication to the beneficiary via the identified communication channel to the beneficiary as claimed in claims 1, 21, and 26. In addition, *Goodman* does not disclose a defense coordinator that enables a recipient system to participate in a distributed strike back against a beneficiary of an unwanted communication as claimed in claim 26.

A. *Goodman* does not disclose identifying a communication channel to a beneficiary of an unwanted communication by examining a content of the unwanted communication as claimed in claims 1, 21, and 26.

Appellant respectfully submits that *Goodman* does not disclose identifying a communication channel to a beneficiary¹ of an unwanted communication by examining a content of the unwanted communication as claimed in claims 1, 21, and 26. Instead, *Goodman* discloses identifying spammers, i.e. senders of unwanted communications. (*Goodman*, paragraph 0008, lines 1-4). It is submitted that identifying spammers as taught by *Goodman* does not anticipate identifying a communication channel to a beneficiary of an unwanted communication as claimed in claims 1, 21, and 26 because a spammer as disclosed in *Goodman* may send spam messages on behalf of another party who is the true beneficiary of a spam message. For example, a spammer as disclosed in *Goodman* may send a spam email on behalf of a seller of a product or service who is the true beneficiary of the spam email. One of the advantages of appellant's invention is that it strikes back against a beneficiary who does not actually send an unwanted communication, e.g. a pornographer who hires an out of jurisdiction spammer to send spam emails that peddle the content offered by the pornographer. (See Appellant's specification on page 8, line 32 through page 9, line 14 and page 1, lines 29-32). *Goodman* does not teach examining the content of messages to identify a beneficiary, e.g. a seller, who is the true beneficiary as claimed in claims 1, 21, and 26.

¹ Appellant's specification defines a beneficiary of an unwanted communication as "an individual and/or organization that seeks an economic or other benefit to flow from the unwanted communication." (See Appellant's specification on page 4, lines 13-18).

B. *Goodman* does not disclose striking back against a beneficiary of an unwanted communication by sending a communication via an identified communication channel to the beneficiary as claimed in claims 1, 21, and 26.

Appellant submits that *Goodman* does not disclose striking back against a beneficiary of an unwanted communication by sending a communication via an identified communication channel to the beneficiary as claimed in claims 1, 21, and 26. This follows from the fact that *Goodman* does not disclose examining a content of an unwanted communication to identify a communication channel to a beneficiary of the unwanted communication as claimed in claims 1, 21, and 26. Instead, *Goodman* teaches sending a communication, a warning, to a spammer (*Goodman*, paragraph 0016, line 11) and appellant has shown that a spammer as taught by *Goodman* is not a beneficiary of an unwanted communication as claimed in claims 1, 21, and 26.

C. *Goodman* does not disclose a defense coordinator that enables a recipient system to participate in a distributed strike back against a beneficiary of an unwanted communication as claimed in claim 26.

Appellant submits that *Goodman* does not disclose a defense coordinator that enables a recipient system to participate in a distributed strike back against a beneficiary of an unwanted communication. *Goodman* does not disclose a defense coordinator that generates a set of strike back parameters for a recipient system by examining a content of an unwanted communication and identifying a beneficiary as claimed in claim 26. Appellant has shown that *Goodman* does not even disclose examining a content of an unwanted communication to identify a communication channel to a beneficiary of the unwanted communication as claimed in claim 26.

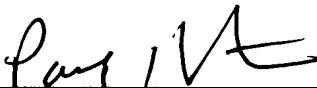
CONCLUSION

Appellant respectfully submits that the stated rejections cannot be maintained in view of the arguments set forth above. Appellant respectfully submits that all of the claims 1-9 and 21-31 are patentable under 35 U.S.C. §102 over the references cited by the Examiner and requests that the Board of Patent Appeals and Interferences direct allowance of the rejected claims.

Respectfully submitted,

By

Date: 7-16-07



Paul H. Horstmann
Reg. No. 36,167

CLAIMS APPENDIX

1. A method for defense against an unwanted communication, comprising:
 - identifying a communication channel to a beneficiary of the unwanted communication by examining a content of the unwanted communication;
 - striking back against the beneficiary by sending a communication via the communication channel to the beneficiary.
2. The method of claim 1, wherein sending a communication via the communication channel to the beneficiary comprises sending a communication via the communication channel that includes a request that the beneficiary cease further unwanted communications to a recipient of the unwanted communication.
3. The method of claim 1, wherein sending a communication via the communication channel to the beneficiary comprises repeatedly sending the communication in accordance with a set of strike back parameters.
4. The method of claim 3, further comprising adjusting a cost imposed on the beneficiary with the communication by adjusting the strike back parameters.
5. The method of claim 1, wherein identifying comprises identifying a money input channel used by the beneficiary to obtain a benefit.
6. The method of claim 1, wherein identifying comprises calling a phone number contained in the unwanted communication.
7. The method of claim 1, wherein identifying comprises accessing a web site specified in the unwanted communication.
8. The method of claim 7, wherein identifying comprises exploring a web site specified in the unwanted communication to find a web page that is financially important to the beneficiary.

9. The method of claim 1, wherein identifying comprises performing a pattern match on a text of the unwanted communication.
21. A defense coordinator that obtains an identify request from a recipient of an unwanted communication and that in response identifies a communication channel to a beneficiary of the unwanted communication by examining a content of the unwanted communication and that performs a strike back against the beneficiary by sending a communication via the communication channel to the beneficiary.
22. The defense coordinator of claim 21, wherein the communication includes a request that the beneficiary cease further unwanted communications to the recipient.
23. The defense coordinator of claim-21, wherein the communication channel is a money input channel used by the beneficiary to obtain a benefit.
24. The defense coordinator of claim 21, wherein the defense coordinator maintains a set of information pertaining to the beneficiary and determines a set of strike back parameters in response to the information and repeatedly performs the strike back in accordance with the strike back parameters.
25. The defense coordinator of claim 24, wherein the defense coordinator generates a web page that enables the beneficiary to stop the strike back.
26. A distributed strike back system, comprising:
recipient system of an unwanted communication;
defense coordinator that obtains an identify request from the recipient system and that in response determines a set of strike back parameters that identify a communication channel to a beneficiary of the unwanted communication by examining a content of the unwanted communication and that sends the strike back parameters to the recipient system such that the recipient system performs a strike back against the beneficiary by sending a communication via the communication channel to the beneficiary.

27. The distributed strike back system of claim 26, wherein the communication includes a request that the beneficiary cease further unwanted communications to the recipient system.
28. The distributed strike back system of claim 26, wherein the communication channel is a money input channel used by the beneficiary to obtain a benefit.
29. The distributed strike back system of claim 26, wherein the defense coordinator maintains a set of information pertaining to the beneficiary and determines the strike back parameters in response to the information such that the strike back parameters specify an intensity of the strike back against the beneficiary.
30. The distributed strike back system of claim 26, wherein the defense coordinator generates a web page that enables the beneficiary to stop the strike back.
31. The distributed strike back system of claim 26, wherein defense coordinator identifies the communication channel by performing a pattern match on a text of the unwanted communication.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.